

Senate Bill 169
January 29, 2013
Presented by Paul Sihler
Senate Taxation Committee

Mr. Chairman and members of the committee, for the record I am Paul Sihler, the Field Services Division Administrator of Montana Fish, Wildlife and Parks (FWP). I rise today in opposition to SB 169.

Under 87-1-603, MCA, FWP currently pays property taxes on most of the land it owns in fee title. The statute provides an exception for game or bird farms and fish hatcheries and for state parks purchased prior to 2009. In 2012, FWP made \$763,382 in property tax payments and assessments to 42 counties.

SB 169 makes a substantial and surprising change to tax law in that it would require FWP to pay property taxes on land that the FWP does not own. Specifically, the bill requires FWP to pay property taxes on land over which the FWP holds a conservation easement.

Conservation easements are a tool that FWP uses to conserve important wildlife habitat and gain public hunting access without having to own land in fee title. The advantage of a conservation easement is that the land remains in private ownership and management – typically as a working forest or productive agricultural operation. The responsibility to pay property taxes remains with the fee title interest of the land, rather than transferring to an owner of lesser property interests, such as a conservation easement, severed mineral right, right-of-way, covenant or lease interest.

SB 169 makes a second unusual change. Section 3 requires certain land owned by the FWP to be taxed as residential property, even though that is not the actual use of the property. The residential tax rate would apply to properties purchased by FWP at a price exceeding the amount that the county uses as a basis for its tax assessment. FWP purchases land at fair market value based on independent appraisal. Generally this market value exceeds the county valuation on which typical agricultural or forest land taxes are based. Application of SB 169 to FWP land purchases would skyrocket FWP's tax liability from agriculture and timber rates to residential rates, even though these FWP lands will never be used for residential purposes and will never require any of the services that local governments provide to residential property.

Further, it is worth noting that these significant property tax changes apply only to land owned by FWP, thus treating the FWP as a special class of landowner, substantially different from any other individual, organization or state agency.

Section 3 of SB 169 would bring an additional 32,500 acres of state park land under the requirement for property tax payments by eliminating the tax exemption for state park property acquired before May 10, 2009. Much of this land is high-value lakeshore or urban park land, and would be subject to major tax bill because of the land's market value. The state park program is not in a financial position to absorb what would be a huge unfunded cost increase occasioned by SB 169.

The final problem with SB 169 is that the U.S. Fish and Wildlife Service (USFWS) has informed FWP that it would be a violation of federal law for FWP to use our federal or state fishing and hunting license funding to comply with SB 169. The USFWS views this bill as requiring FWP to pay property taxes for land it doesn't own and singling FWP out for unequal treatment compared to other Montana property owners. As a result, if this bill were to pass, the USFWS would rule that FWP was no longer eligible to receive \$18.8M in annual funding from federal excise taxes on hunting and fishing equipment. Montana hunters and anglers would still have to continue paying this excise tax, but would receive no benefit from doing so.

FWP secures land and conservation easements to serve the habitat and access needs of Montana sportsmen and sportswomen, and to support a park system that provides recreational, historic, educational and cultural benefits to all Montanans. Our agency has a long track record of making reasonable property tax payments to Montana counties, and we spend three-quarters of a million dollars of hunter and angler license funds annually for this purpose. However, the provisions of SB 169 would single FWP out for unequal treatment under state tax law, and thus jeopardize programs that serve the hundreds of thousands of Montanans who hunt, fish and use our state parks and access sites.

Mr. Chairman and members of the committee, for these reasons FWP urges a "Do Not Pass" for SB 169.